THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10539 OF 2006

16.06.2006

Between:

Moru Venkateswara Rao, S/o.Pedda Satyanarayana

… Petitioner

AND

The District Collector, West Godavari District, Eluru
And another

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10539 OF 2006

ORDER:

The petitioner is resident of Vidyanagar in Eluru Town. He is allegedly owner of land admeasuring Acs.20.00 in R.S.No.437/6 situated at Satyavolu Village H/o Gudipadu Panchayat of Pedapadu Mandal in West Godavari District. He allegedly purchased the land under registered sale deed dated 03.1.1983 from Boppana Satyanarayana, who is said to have purchased the same from one Yelamanchili Narayana Babu under registered sale deed dated 19.12.1957. At present, the petitioner has fish tanks in the land. He alleges that on 24.5.2006 the officials brought proclainers with a view to demolish the fish tanks. He therefore requested the respondents to conduct survey of land with reference to field measurement book contending that his fish tanks fall out side the prohibited area of wild life sanctuary, in vain. Therefore, he filed the present writ petition.

Learned Counsel for the petitioner contends that the action of the respondents in proposing to demolish the fish tanks of the petitioner without due process of law is illegal and unwarranted. According to the learned Counsel for the petitioner, the land of the petitioner is a private land and it is out of the prohibited area of wild life sanctuary. Though there is no whisper in the entire affidavit, learned Counsel for the petitioner during the arguments submit that the petitioner is carrying on fish culture traditionally, that the fish tanks are outside the wild life sanctuary and therefore he has to be permitted to carry on fishing. For this reason, he relies on the observations made by the Supreme Court in **T.N.Godavarman Thirumalpad v Union of India**[1].

At the stage of admission itself, the Divisional Forest Officer, Wildlife Management Division, Eluru, who was impleaded as respondent No.3 by order of this Court dated 16.6.2005 in W.P.M.P.No.14628 of 2006, has filed a detailed counter affidavit. It is however not necessary to refer the said counter elaborately. Suffice to mention that the Mandal Revenue Officer, Pedapadu Mandal (MRO),

second respondent herein, issued a certificate on 07.6.2006 to the effect that the land of the petitioner is situated within + 5 contour areas falling within the lake bed of Kolluru Lake, which is declared as Kolleru Wild Life Sanctuary vide G.O.Ms. No.120 dated 04.10.1999. Therefore, the petitioner cannot carry on any fishing operations in the Wild Life Sanctuary. Dealing with this aspect with reference to the notification dated 04.10.1999 issued under Section 26A of the Wild Life (Protection) Act, 1972, the Hon'ble Supreme Court observed as under.

> We do not find any merit in the above arguments for the following reasons. Firstly, Section 29 specifically prohibits commercial activity inside the Sanctuary. It prohibits commercial activity, which diverts, stops or increases the flow of water into or outside the Sanctuary. With the issuance of the final Notification formation of fish tanks for aquaculture or for any other purpose is prohibited as they obstruct free flow of water both into or outside the Sanctuary. Secondly, the Notification dated 04.10.1999 provides a limited right to carry on fishing inasmuch as it permits fishing with traditional methods using mavus and nets. It expressly, however, prohibits the objectors from forming any fish tank(s) for aquaculture or for any other purpose. It also expressly provides that wherever pisciculture was existing on the date of the notification in private lands, fishing in traditional methods shall be permitted, without causing environmental hazard, till the government acquired such private lands. It also cancels the pattas granted in the past. In our view, therefore, the Notification regulates aquaculture, pisciculture, prawn culture, shrimp culture etc. Thirdly, the argument advanced on behalf of the objectors that mud bunds formation is compatible with traditional fishing practice and, therefore, should be allowed to continue to exist, has no merit. When a bund is formed in a sanctuary or a lake it seeks to encapsulate an area which in turn obstructs free flow of water in the lake bed area. As stated above, formation of bund reduces the retention capacity of the lake. These formations, if allowed, would destroy the lake. In view of the provisions of section 26A read with section29 all commercial activities which seek to destroy the ecology, stands prohibited. Compatibility of mud bunds with the traditional fishing practice in a like is a concept different from formation of mud bunds inside the Sanctuary.

Keeping in view the above observations, this Court does not find any merit in the writ petition, the same petition is accordingly dismissed.

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(**V.V.S.RAO, J**)

June 16, 2006
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[1] (Order dated 10.4.2006 in I.A.Nos.1486-87 in W.P.(c) No.202 of 1995)